

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**BLUE SPIKE, LLC,**

*Plaintiff,*

**V.**

**TEXAS INSTRUMENTS, INC., *et al.*,**

***Defendants.***

**Civil Action No. 6:12-CV-499-LED**  
(Consolidated from 6:12-CV-534)

## JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY IN RESPONSE TO DEFENDANT  
VERCURY’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of Vercury, Inc. (“Vercury” or “Defendant”) (Dkt. No. 82) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

## THE PARTIES

1. Plaintiff admits the allegations of Paragraph 1, upon information and belief.
2. Plaintiff admits the allegations of Paragraph 2.

## JURISDICTION AND VENUE

3. Plaintiff admits that Defendant purports to bring a declaratory judgment claim, that an actual controversy exists, and that Plaintiff is asserting the patents-in-suit against Defendant. Plaintiff denies the remaining allegations of Paragraph 3.
4. Plaintiff admits that venue is proper in this District.

## FACTS

5. Plaintiff admits that it has accused Defendant of infringing the patents-in-suit and that Defendant has denied said infringement. Plaintiff is without knowledge or information sufficient

to form a belief as to the truth of the remaining allegations in Paragraph 5 and on that basis denies them.

6. Plaintiff admits that an actual controversy exists.

#### **FIRST COUNTERCLAIM**

7. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 6 above.

8. Plaintiff admits the allegations of Paragraph 8.

9. Plaintiff denies the allegations of Paragraph 9.

10. Plaintiff again admits that an actual controversy exists.

11. Plaintiff denies the allegations of Paragraph 11.

12. Plaintiff denies the allegations of Paragraph 12.

#### **SECOND COUNTERCLAIM**

13. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 7 above.

14. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 and on that basis denies them.

15. Plaintiff again admits that an actual controversy exists.

16. Plaintiff denies the allegations of Paragraph 16.

17. Plaintiff denies the allegations of Paragraph 17.

#### **PRAYER FOR RELIEF**

Plaintiff denies that Defendant is entitled to any of the relief it requests.

#### **PLAINTIFF'S PRAYER FOR RELIEF**

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Dated: November 15, 2012

Respectfully submitted,

/s/ Randall T. Garteiser  
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***Counsel for Blue Spike, LLC***

**CERTIFICATE OF SERVICE**

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser  
Randall T. Garteiser